IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5911 OF 2004

Intaz Mohamad Sharif Shaikh ...Applicant

Versus

State of Maharashtra & Ors. ...Respondents

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Mr.Uday Warunjikar for Applicant.

Mr.K.V.Saste, A.P.P. for Respondent No.1.

Mr.Niyaz Ahmed for Respondents 2 to 9.

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CORAM: A.M.KHANWILKAR, J.

APRIL 25, 2005.

P.C.

1. On the previous occasion, my attention was invited to Para 3 of the Application, being false statement made on affidavit. Para 3 of the Application reads thus :

> "The Applicant further submits that the Applicant herein is legally wedded wife of the Accused No.1 i.e. the Respondent

No.2. Out of the said wed lock, she has delivered two sons and one daughter, son by name Aarif aged 12 years, daughter by name Nafisa 10 years old and son by name Aamir aged 8 years and all are staying with the present Applicant, since the Applicant was drawn out of her Matrimonial Home, she is compelled to stay at the mercy of her parent at the address mentioned hereinabove".

2. Mr.Warunjikar, appearing for the Applicant, however, sought adjournment on the ground that he would like to take instructions in respect of the said assertions made on affidavit. The reply filed by the Respondent No.1 is sworn on 28th March 2005 and was duly served on the Advocate for the Applicant on 28th March 2005 at 1.00 p.m. as per the noting on the file. However, Mr.Warunjikar submitted that since the matter was adjourned for exploring the possibility of settlement, he did not think it necessary to file rejoinder, countering the assertions made in the reply affidavit. Acceding to that request, the

matter was kept for hearing today.

3. Once again, Mr.Warunjikar prays for further time on the ground that he was unable to contact the Applicant and communication sent to the Applicant has not been received back, nor any information has been given by the Applicant so far.

4. Ordinarily, this Court would have acceded to the request of Mr.Warunjikar for short adjournment. However, in my view it is unnecessary to adjourn the matter because all the three children have been produced by Respondents before this Court today. In other words, it has become obvious that the assertion made in Para 3 of the Application by the Applicant on affidavit, is false. On this Count, the Application deserves to be dismissed. Ordered accordingly.

A.M.KHANWILKAR, J.